

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DEANGELO EVANS, SR.,

Plaintiff,

v.

CURT FELL, et al.

Defendants.

ORDER

Case No. 24-cv-587-jdp

On August 22, 2024, I entered an order assessing plaintiff DeAngelo Evans, Sr. an initial partial payment of the filing fee in the amount of \$18.66. Now plaintiff has filed a request to move forward without paying anything, which I construe as a motion to waive the initial partial payment. Dkt. 5. I will grant the motion for the following reasons:

In 28 U.S.C. § 1915(b)(1), Congress established a formula to determine the filing fee for a federal lawsuit by a prisoner seeking leave to proceed *in forma pauperis*. The statute says, "The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of — (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint."

In calculating the initial partial payment in this case, I used the trust fund account statement that plaintiff submitted on August 22, 2024. I determined that his average monthly deposits were \$94.33. Twenty percent of \$94.33 is \$18.66. However, plaintiff now writes: "I have no funds at all available. . . . I have no money. . . . I really have \$0.00 funds but wish for my case to move forward." I will grant the motion to waive the initial partial payment based on the absence of any funds to collect.

ORDER

IT IS ORDERED that:

1. The motion filed by plaintiff DeAngelo Evans, Sr. to waive the initial partial filing fee is GRANTED.
2. No further action will be taken in this case until the court has screened the complaint as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2). Once the screening process is complete, the court will issue a separate order.

Entered this 13th day of September, 2024.

BY THE COURT:

/s/
ANDREW R. WISEMAN
United States Magistrate Judge